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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

B5

DATE: **FEB 24 2012** OFFICE: TEXAS SERVICE CENTER

FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability pursuant to section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center (Director). The petitioner filed a motion to reopen, which was also denied by the Director. The matter is now on appeal before the Chief, Administrative Appeals Office (AAO). The appeal will be dismissed.

The petitioner is a software consultancy business. It seeks to permanently employ the beneficiary in the United States as a project manager and to classify him as an advanced degree professional pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). The Director denied the petition on two grounds: (1) the petitioner failed to establish its continuing ability to pay the proffered wage and (2) the record did not establish that the beneficiary had the requisite education for the proffered position, as specified on the labor certification (Form ETA 750). The Director denied the motion to reopen on the same grounds. A timely appeal was filed, along with additional documentation.

On December 16, 2011, the AAO sent a notice of intent to dismiss (NOID) to the petitioner, with a copy to counsel.¹ The AAO reviewed the evidence of record in regard to the U.S. equivalency of the beneficiary's educational credentials from India, and advised the petitioner of information in the Electronic Database for Global Education (EDGE), created by the American Association of Collegiate Registrars and Admissions Officers (AACRAO), which backed the Director's previous finding that the beneficiary's academic credentials – including a three-year Bachelor of Science degree from the University of Calcutta, a one-year post-graduate diploma (PGD) in systems management from the National Institute of Information Technology (NIIT), and a three-year part-time PGD in business management from the Indian Institute of Social Welfare and Business Management – were not equivalent to a U.S. master's degree in business, computer science, engineering, or a related field, as required on the labor certification (Form ETA 750). The AAO also reminded the petitioner of the need to establish its continuing ability to pay the proffered wage of \$95,300 per year (as specified in the labor certification) from the priority date of September 17, 2003 (the date the Form ETA 750 was received for processing at the Department of Labor) up to the present. The petitioner was afforded 45 days to respond to the NOID with additional evidence.

The petitioner did not respond within the 45-day period specified in the NOID (or any time since then). If a petitioner fails to respond to a request for evidence by the required date, the petition may be summarily denied as abandoned, denied based on the record, or denied for both reasons. *See* 8 C.F.R. § 103.2(b)(13)(i). As further provided in 8 C.F.R. § 103.2(b)(14), the failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition.

Since the petitioner has not responded to the NOID of December 16, 2011, the petition is deniable under the regulatory provisions cited above. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.

¹ In a letter to the AAO dated January 24, 2012, the [REDACTED] advised that it was withdrawing as counsel to the petitioner in this proceeding.